UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,815	07/13/2001	Robert S. Blackmore	POU920000147US1	4435

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LAWRENCE D. CUTTER
IBM Corporation
Intellectual Property Law Dept.
2455 South Rd., M/S P386
Poughkeepsie, NY 12601

EXAMINER
LE, HIEU C

ART UNIT	PAPER NUMBER
2142	

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/904,815	BLACKMORE ET AL.
	Examiner	Art Unit	
	Hieu c. Le	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _30 March 2005_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-9_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-9_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

1.   The amendment filed 3/30/05 have been entered and made of record.

2.   In response to Applicant's amendment filed 3/30/05 the 112,2nd claims 1-9

rejection is withdrawn.

3.   In response to Applicant's amendment filed 3/30/05 the 101 claim-9 rejection is

withdrawn.

4.   The Applicant 's argument filed 3/30/05 have been fully considered but they are

not persuasive for the following reasons:

   Applicant alleges that " accordingly, in applicant's claimed invention "once a

plurality of message are sent out the very next step is to set the status of the sending

process to an idle [,]" (p. 7, line 10-p. 8, line 20). The Examiner disagrees. Firstly, the

Examiner cannot see any where in the claim language " once a plurality of messages

are sent out the very next step is to set the status of the sending process to an idle" or

"only the sending process has a state which is switched from active to idle and back

again" upon which the applicant relies is not recited in the rejected claim(s). Although

the claims are interpreted in light of the specification, limitations from the specification

are not read into the claims. *In re Van Guens*, 988 F. 2d 1181, 26 USPQ2d 1057 (Fed.

Cir 1993).

   Secondly, there is nothing in the claim language that precludes an entire node

going idle (i.e, sending and receiving) as long the sending state goes idle. Third,

Champagne clearly discloses that idle state is require before message transmission can

begin and must follow the end-of-message EMO sequence (i.e. idle should flow when

the sending of message is complete) otherwise the receiving node will time out (col. 8,

lines 49-53) and this is clearly shown in Fig. 4, lines 27 after EOM (end of message)

sent from node A , the sending process is changed on line 28 to IDLE according to the

above disclosure on (col. 28, lines 49-53).

Applicant alleges that "Finally, attention directed [,]" (p. 8, line 21-p. 8, line 6). The Examiner disagrees. Firstly, As explained above, that there is nothing in the claim language that precludes the receiving status of the node to go idle with the sending status, The Examiner does not see "only" in the claim. Secondly, Champagne dose not turn off the entire node as applicant argues. Champagne disclose as shown in Fig. 4 and col. 9, lines 40-52 that at line 15, node A starts to send (SOM) its message and at line 27, end of message (EOM) (i.e. the sending of message is ended) at line 28, the sending status goes to idle not the entire node simply because at line 29, while the node is in IDLE status it receive the confirmation PACK from node B that the message from node A has been correctly received by node B, which proves that node A, is in an IDLE sending status. The combination of Champagne and Mendel teaches the invention as broadly as claimed. Fourth, again the Examiner can not see in the claim language that "an idle state is to be entered immediately"

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5.   Claims 1-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1, recites "said number of nodes being the same as the number of said

plurality of messages". There is no disclose anywhere in the specification as originally

filed of "said number of nodes being the same as the number of said plurality of

messages ". As a matter of the fact the applicant argue filed 3/30/05 on page 5, lines

19-24, states that messages are sent to other not necessarily to all the other nodes but

certainly to a plurality of them and the intent of the language as amended to reflect the

notion that the plurality of message go to different nodes.

No where in the specification it states that the number of nodes being the same as the

plurality of messages .

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Champage et al (US Patent 4,750,165) in view of Mendel (US. Patent. 6,192,443).

As to claim 1, [As best understood by the Examiner] Champage discloses a

method for message processing in a distributed data processing system having a

plurality of nodes (col. 6, line 30, col. 11, lines 32-37), said method comprising the steps

of:

sending a plurality of messages from sending a process running on one of the

nodes in the system to an equal plurality of other nodes in the system (col. 6, lines 61-

68);

setting the status of said sending process to idle (col. 9, lines 46-53); and

changing the status of said sending process to active upon receipt of responses

to said messages from all of said other nodes or upon receipt of notification that at least

one response will not arrive [Fig. 6, shows the node at IDLE state, receives NACK

(negative acknowledgement it goes to SEND (active)].

Champagne does not disclose the number of other nodes in the system, said

number of nodes being the same as the number of said plurality of messages.

Mendel discloses a distributed system for sending messages between plurality

of nodes (col. 6, lines 52-67). A subset of a set of nodes is selected and messages

are send to each node (Figs. 2&3).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to use Mendel's teachings to modify the method of Champage by

using a subset of a set of nodes in order to switch access to secondary node if the

primary node unavailable for any reason.

As to claim 2, Champage further discloses further including the step of

processing, by said sending process, said responses to said messages (Fig. 5, items

52).

As to claim 3, Mendel further discloses prior to sending the message, the sending process selects a subset of nodes within said data processing system for receipt of the message (Fig. 2 &3).

Mendel discloses a distributed system for sending messages between plurality of nodes (col. 6, lines 52-67). A subset of a set of nodes is selected (Figs. 2&3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Mendel's teachings to modify the method of Champagne by using a subset of a set of nodes in order to switch access to secondary node if the primary node unavailable for any reason.

As to claim 5, refer to claim 1 rejection. Champage further discloses

a plurality of nodes connected by a network for sending messages between the nodes (col. 11; lines 32-36);

a plurality of message processing programs each being stored in one of said nodes (Fig. 5);

a message sending process program residing in one of said nodes and being capable of entering an inactive state (col. 9, lines 16-51),

a message processing interface program, residing on said one node and being capable of (1) sending a plurality of messages in response to requests from said sending process program (Fig. 5),

As to claim 6, refer to claim 3 rejection.

As to claim 7, refer to claim 2 rejection.

As to claim 8, refer to claim 4 rejection.

As to claim 9, refer to claim 1 rejection. Champage further discloses computer

Program (Fig. 5, items 52,56,57).

8.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

9.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Hieu Le whose telephone number is (517) 272-3897.

The examiner can normally be reached on Monday to Friday from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dharia Rupal, can be reached on (571) 272-3880. The fax phone number for this Group is (703) 308-9051.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Hieu Le

BEATRIZ PRIETO
PRIMARY EXAMINER